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IN THE

Supreme Court of the United States

October Term, 1949.
No. 49

HELEN PARKER, IONE LANE WHEELER, KATHERINE GATES, CORNELIUS WEBSTER, WILLIAM G. COLE, J. L. MARTIN, ROBERT L. McGUIRE, JULLEANA GLISBY, ALICE M. PARSONS, CAROLINE POTTENGER, JOHN R. McCROSKEY, MATTIE A. BELINO, ADA GRUVER, MAJOR WEST, ALICE WALSH, C. H. DEMAREST, BETTY S. SELDEN, MIRIAM LASAROU, RALPH L. DAVIS, WINIFRED McCONNELL, COLUMBUS S. BELL, SHIRLEY GALAT, RUTH THOMASEN, KENT HAMMOND THIES, LAWRENCE LUCKS,

Petitioners,

vs.

COUNTY OF LOS ANGELES; WILLIAM A. SMITH, LEONARD J. ROACH, JOHN ANSON FORD, RAYMOND V. DARBY and ROGER W. JESSUP, and Each of Them as Members of the Board of Supervisors of Said County; WAYNE ALLEN, as Chief Administrative Officer of Said County; HAROLD W. KENNEDY, as County Counsel of Said County; CHARLES C. MACK, G. H. NEWLAND and T. J. O'KEEFE, and each of Them, as Members of the Civil Service Commission of Said County; CLIFFORD AMSDEN, as Secretary and Chief Examiner of Said Commission; MICHAEL DONOGHUE, as Registrar of Voters of Said County,

Respondents.

ON CERTIORARI TO THE DISTRICT COURT OF APPEAL, SECOND APPELLATE DISTRICT OF THE STATE OF CALIFORNIA.

Motion for Leave to File Brief as Amicus Curiae and Brief in Support of Petitioners, Submitted by Los Angeles Area Council of American Veterans Committee as Amicus Curiae.

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Respondents.

ON CERTIORARI TO THE DISTRICT COURT OF APPEAL, SECOND APPELLATE DISTRICT OF THE STATE OF CALIFORNIA.

Motion for Leave to File Brief as Amicus Curiae.

The Motion of the Los Angeles Area Council of American Veterans Committee for leave to file brief as *amicus curiae* in the above entitled proceedings respectfully shows as follows:

(1) The Los Angeles Area Council of the American Veterans Committee is a veterans' organization situated in the County of Los Angeles, State of California.

(2) It was originally listed as one of the organizations referred to in Paragraph D of the required Oath and Affidavit involved herein, but was subsequently removed from that list by action of the Los Angeles County Board of Supervisors. It asks leave to file this brief as *amicus curiae* because it feels very strongly that the imposition of such a "test oath" is a dangerous infringement of Constitutional guarantees.

Wherefore, applicant prays leave to file the attached brief as *amicus curiae* herein in support of petitioners.

Dated: Los Angeles, California, November 4, 1949.

GEORGE SLAFF,
Attorney for Los Angeles Area Council of the American Veterans Committee.

SEYMOUR MANDEL,
Of Counsel.

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Respondents.

ON CERTIORARI TO THE DISTRICT COURT OF APPEAL, SECOND APPELLATE DISTRICT OF THE STATE OF CALIFORNIA.

The Brief of the Los Angeles Area Council of the American Veterans Committee as Amicus Curiae.

To the Honorable Fred M. Vinson, Chief Justice of the United States, and to the Honorable Associate Justices of the Supreme Court of the United States.

Who the Amicus Curiae Is.

The Los Angeles Area Council of the American Veterans Committee is an organization composed of veterans of World War II. It is a local subdivision of the national parent organization called the American Veterans Committee. Its character is best reflected by the Preamble to the Constitution of the American Veterans Committee, which declares:

> "We, as veterans of the Second World War, associate ourselves regardless of national origin, creed, or color for the following purposes:
>
> "To preserve the Constitution of the United States; to insure the rights of free speech, free press, free worship, free assembly, and free elections; to provide thorough social and economic security to all; to maintain full production and full employment in our country under a system of private enterprise in which business, labor, agriculture, and government cooperate; to promote peace and good will among all nations and all peoples; to support active participation of this Nation in the United Nations and other world organizations whose purposes are to improve the cultural, commercial, and social relations of all peoples; to provide such aid to disabled veterans as will enable them to maintain the position in society to which they are entitled; to provide such financial, medical, vocational, and educational assistance to all veterans as is necessary for complete readjustment to civilian life; to resist and defeat all attempts to create strife between veterans and non-veterans; and to foster democracy.
>
> "We dedicate ourselves to these aims, and for their attainment we establish this constitution."

Why the Brief Is Submitted.

The effect of the test oath challenged in these proceedings upon the organizations listed therein is a real threat to the very existence of such organizations. The fear engendered in the minds of present and potential members of any organization included in such an *Index Expurgatorius*, as it were, can serve only to intimidate persons from joining or continuing their membership. The very act of listing under such circumstances creates an aura of unjustifiable odium about any organization thus listed.

The fact that membership in local chapters of the American Veterans Committee declined after its inclusion in the Los Angeles County *Index*, although it was subsequently apparently purged of the curse of heresy by grace of the Board of Supervisors, is clear indication of the threat to the continued growth of such "proscribed" organizations inherent in governmental action of this nature. When one's means of livelihood is threatened by the fear of engaging in social or fraternal activities which do not meet the approval of governmental officialdom a creeping paralysis of one's normal and valid activities in association with his fellow-men must inevitably set in. The evil effects of such interference with one's rights are pervasive far beyond the local scene upon which they may occur, for certainly if the A. V. C. becomes an object of official obloquy in Los Angeles, it would be naive to assume that repercussions upon A. V. C. will not be felt in San Francisco, in Chicago, in New York—wherever you will. Certainly governmental employees in cities other than Los Angeles will hesitate to continue their membership or to join an organization which has been so stigmatized, unjust as the stigma may be.

The right of the people to join together for their common good—or for what they conceive to be their common good—is as old as our constitutional system itself. Indeed, it is older, for the inhibitions in the Constitution against governmental action which might interfere with the right of the people peaceably to assemble, to speak freely, to petition for redress of grievances arose out of what our forefathers knew to be their rights—and for which they fought a long and bloody war—long before a Constitution of the United States of America came into existence. Governmental action which coerces the people in the peaceful exercise of such basic rights cannot possibly meet the test of constitutional validity.

The American Veterans Committee is composed of Americans who, too, have fought in a long and bloody war to defend the principles upon which our system of constitutional democracy stands. Since the end of that war it has engaged in many peace-time campaigns among our people which have involved matters of perhaps highly controversial opinion for it believes that society must move forward rather than remain fixed in an immobile *status quo*. We hope that the American Veterans Committee will continue in the future to fight freely and vigorously for the principles in which it believes. This we conceive to be not only our duty but our right as Americans under the American Constitution. Because of this conception, we can look only with abhorrence upon governmental action which seeks to deprive us of that right by intimidating our members and our potential members.

We conceive our rights as Americans to be no different and no greater than those of other Americans. Unlike the Los Angeles County Board of Supervisors we claim no special patent upon our own brand of patriotism nor

do we place anyone beyond the pale of constitutional protection whether we agree or disagree with what they believe in. Thus, although we are naturally gravely concerned with the effect of such action as is involved here upon our own organization and membership we are equally concerned with its effect upon the rights of others to join freely in any other organizations of their own choosing. What is an unconstitutional infringement of our rights is equally an unconstitutional impairment of the rights of others.

Our democracy—any genuine democracy—can function effectively only when men are free to think and to speak as free men, alone or in concert, without fear of the punishment which may be visited upon them for their thoughts or associations by bureaucrats bloated with temporary power of office. This Court has been quick in the past to strike down such encroachments upon our liberties. It should be no less prompt today.

Conclusion.

The Los Angeles Area Council of the American Veterans Committee urges the Court to reverse the judgment of the Court below.

Dated: Los Angeles, California, November 4, 1949.

Respectfully submitted,

GEORGE SLAFF,

Attorney for Los Angeles Area Council of the American Veterans Committee.

SEYMOUR MANDEL,

Of Counsel.